

MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF MEMPHIS
February 9, 2010

3:30 P.M. SCHEDULED SESSION

3:30 P.M. MEETING COMMENCED

ROLL CALL: William Boyd, Joe Brown, Kemp Conrad, Shea Flinn, Edmund Ford, Jr., Janis Fullilove, Wanda Halbert, Reid Hedgepeth, Myron Lowery, Bill Morrison, Jim Strickland, Barbara Swearengen Ware and Chairman Harold Collins.

**THE MEETING WAS CALLED TO ORDER
BY SERGEANT-AT-ARMS**

INVOCATION

The meeting was opened with prayer by Apostle A. R. Williams from World Overcomers Outreach Ministries. Councilwoman Janis Fullilove presented Apostle Williams with a certificate naming him Chaplain of day.

These minutes record the agenda items and the action taken by the Council on such items. The full text of the original of the ordinances, resolutions and supporting documents, including an audio recording of Council's deliberations are filed and maintained in the office of Council Records/Records Management, Room 2B-08. The original ordinances and/or resolutions adopted by the Council shall control in the event of any conflict between the description in these minutes and the original documents, ordinances and/or resolutions.

MINUTES

Approval of the Minutes of the regular meeting of January 26, 2010 with the following motion:

Councilwoman Ware stated that Special Item #4 from the Minutes of January 26, 2010 needs to be pulled from the Minutes because the School Board did not accept it. Councilman Collins stated to Councilwoman Ware that the only person that could pull this item off the Minutes would be a person who voted in the affirmative and her name was not one of them.

Councilman Hedgepeth then stated that we would like to remove Special Item #4 from the Minutes of January 26, 2010. This was seconded by Councilman Flinn. Chairman Collins stated that without objection this item will be pulled. There was opposition.

After a statement from the Council Attorney regarding pulling this item, Chairman Collins ruled Councilman Hedgepeth's motion out of order.

MOTION: Ford
SECOND: Ware
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED, as amended. (See Tickler File for amendments)

1. RESOLUTION HONORING THE STONE AWARDS EVENT AND ITS POSITIVE IMPACT IN THE COMMUNITY.

Held to February 23, 2010

2. RESOLUTION HONORING WILL HUDSON, GENERAL MANAGER OF MATA ON HIS INDUCTION INTO THE TENNESSEE TRANSPORTATION HALL OF FAME, HIS ROLE AS PRESIDENT OF THE TENNESSEE PUBLIC TRANSPORTATION ASSOCIATION AND HIS OVERALL COMMITMENT TO THE COMMUNITY.

MOTION: Boyd
SECOND: Ware

APPROVED, by unanimous voice vote

20. RESOLUTION AMENDING FY 2010 OPERATING BUDGET BY APPROPRIATING \$2,000,000.00 (TWO MILLION DOLLARS) TO THE MED FOR A ONE TIME EMERGENCY GRANT TO ENSURE THIS INSTITUTION CONTINUES TO OPERATE.

MOTION: Flinn – Hold for 3 or 4 weeks
SECOND: Hedgepeth

Council Flinn amended his previous motion

MOTION: Flinn – Hold until February 23, 2010
SECOND: Hedgepeth
AYES: Boyd, Conrad, Flinn, Ford, Hedgepeth, Morrison, Strickland and Chairman Collins
NAYS: Brown, Fullilove, Halbert, Lowery and Ware

APPROVED, set up as Special Item #1

3. **RESOLUTION APPROVING A USE VARIANCE LOCATED ON THE NORTHWEST CORNER OF LAMAR AVENUE AND CENTRAL AVENUE, CONTAINING 2.1 ACRES IN THE HIGHWAY COMMERCIAL (C-H) DISTRICT.** (Held from 01/26)

Case No. UV 09-05

Applicant: Memphis Housing, LLC (Tony Crosby and Joe Harris)
SR Consulting (Cindy Reaves) – Representative

Request: A use variance for an Assisted Living Facility

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Ware

AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Brown and Flinn did not cast a vote

APPROVED, as amended in Committee

4. **RESOLUTION APPROVING A PLANNED DEVELOPMENT LOCATED ON THE SOUTHEAST CORNER OF OVERTON CROSSING ROAD AND FRAYSER BOULEVARD, CONTAINING 8.32 ACRES IN AN AREA CURRENTLY GOVERNED BY K-MART PLANNED DEVELOPMENT (PD 87-325).**

Case No. PD 09-326

Applicant: Memphis Business Academy (Anthony Anderson)
Fisher and Arnold, Inc. – Representative

Request: Planned development to allow Planned Commercial (C-P) District land uses,
including a charter school for 550 middle and high school students

LUCB and OPD recommendation: APPROVAL, with conditions

MOTION: Ford

SECOND: Fullilove

AYES: Boyd, Brown, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland, Ware and
Chairman Collins
Conrad, Flinn and Hedgepeth did not cast a vote

APPROVED

5. **RESOLUTION APPROVING A HOTEL WAIVER FOR REAL VALUE INN LOCATED AT 3896 LAMAR.** (Held from 01/26)

Case No. HMW 09-05

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins
Flinn did not cast a vote

APPROVED

6. **RESOLUTION APPROVING A TIME EXTENSION ON A HOTEL WAIVER FOR ECONO LODGE INN & SUITES, LOCATED AT 2745 AIRWAYS BOULEVARD.**

Case No. HMW 08-04

MOTION: Ford
SECOND: Boyd
AYES: Boyd, Brown, Ford, Fullilove, Halbert, Lowery, Morrison, Strickland, Ware and Chairman Collins
Conrad, Flinn and Hedgepeth did not cast a vote

APPROVED, as amended in Committee. Name changed to Budget Host Inn and Suites. This name change was approved and is retroactive back to last year

CONSENT AGENDA – Items 7 & 8 may be acted upon by one motion: SEE PAGE 1387 FOR ROLL CALL

7. **REFERENDUM ORDINANCE AMENDING ARTICLE 27, SECTION 190 OF THE CHARTER OF THE CITY OF MEMPHIS, SAME BEING CHAPTER 11 OF THE ACTS OF 1879, PURSUANT TO THE PROVISIONS OF ARTICLE 11, SECTION 9 OF THE CONSTITUTION OF THE STATE OF TENNESSEE HOME RULE AMENDMENT SO AS TO REQUIRE ALL PERSONS EMPLOYED BY THE CITY OF MEMPHIS, TO LIVE WITHIN SHELBY COUNTY, TENNESSEE, UP FOR F I R S T READING.**

Ordinance No. 5345

APPROVED, on First reading

8. **ORDINANCE TO AMEND THE CODE OF ETHICS ORDINANCE 5206, CHAPTER 2.5, ARTICLE I, SECTION 2-10-5 (1), UP FOR S E C O N D READING.**

Ordinance No. 5344

APPROVED, on Second reading

ROLL CALL CONSENT ITEMS

MOTION: Ford
SECOND: Ware
AYES: Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

Boyd did not cast a vote

APPROVED

MLGW FISCAL CONSENT – Items 9-11 may be acted upon by one motion:

9. **RESOLUTION APPROVING CHANGE NO. 5 TO CONTRACT NO. 11061, WIRELESS TELEPHONE SERVICES, WITH AT&T MOBILITY, IN THE FUNDED AMOUNT OF \$127,687.44. (THIS RENEWS THE CONTRACT FOR THE FOURTH AND FINAL RENEWAL TERM, APRIL 3, 2010 TO APRIL 2, 2011).**

APPROVED

10. **RESOLUTION AWARDDING 36-MONTH CONTRACT FOR CONCRETE STANDARDS TO RUFFIN & ASSOCIATES, INC. IN THE AMOUNT OF \$1,984,356.00.**

APPROVED

11. **RESOLUTION GIVING THE VICE PRESIDENT AND GENERAL COUNSEL SETTLEMENT AUTHORITY TO PAY A CLAIM IN THE AMOUNT OF \$65,755.00.**

APPROVED

MLGW ROLL CALL CONSENT ITEMS

MOTION: Fullilove
SECOND: Ware
AYES: Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins
Boyd did not cast a vote

APPROVED

12. **ORDINANCE TO AMEND CHAPTER 28, ARTICLE VI, DIVISION 3, OF THE CODE OF ORDINANCES, SO AS TO REDUCE THE NUMBER OF ALLOWABLE FALSE ALARMS, INCLUDE CIVIL DAMAGES AND ADD NOTIFICATION PROCESS OF ALARM USERS OPERATING WITHOUT A PERMIT, UP FOR T H I R D AND F I N A L READING. (Held from 10/20; 11/03)**

Ordinance No. 5328

Friendly Amendments:

- (1) Change language in Item #5 to say 5th day of the following month
- (2) Eight or more false alarms increase the fee to \$50.00

MOTION: Ware

Councilman Conrad accepted friendly amendment #1 only

MOTION: Lowery – Increase Annual Renewal Fee from \$5.00 to \$10.00
SECOND: Hedgepeth
AYES: Flinn, Halbert, Hedgepeth, Lowery and Chairman Collins
NAYS: Boyd, Brown, Conrad, Ford, Fullilove, Strickland and Ware
Morrison did not cast a vote

FAILED, set up as Special Item #2

MAIN MOTION: Conrad
SECOND: Morrison
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Strickland, Ware and
Chairman Collins
NAYS: Halbert
Brown and Morrison did not cast a vote

APPROVED, as amended

13. **ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 3, OF THE CODE OF ORDINANCES, TO ESTABLISH REQUIREMENTS FOR A CITY OF MEMPHIS FLEET AND EMPLOYEE TAKE HOME VEHICLES, UP FOR T H I R D AND F I N A L READING.** (Held from 8/4; 8/18; 9/1; 9/15; 12/1; 1/12; 1/26)

Ordinance No. 5323

DROPPED

14. **RESOLUTION ACCEPTING \$453,197.68 FROM SPRINT NEXTEL TO CITY OF MEMPHIS, TO RECONFIGURE THE 800 MHZ FREQUENCY BAND WHERE CITY OF MEMPHIS RADIOS ARE ON SAID FREQUENCY. PURSUANT TO THE MANDATE, SPRINT NEXTEL WILL REIMBURSE THE COSTS ASSOCIATED WITH THE RECONFIGURATION.**

MOTION: Conrad
SECOND: Fullilove
AYES: Boyd, Conrad, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Flinn recused
Brown and Morrison did not cast a vote

APPROVED

15. **RESOLUTION ACCEPTING \$6,933.00 PER MONTH (\$83,196.00 ANNUALLY) FROM MHA TO THE CITY OF MEMPHIS IS DIVISION, FOR TECHNOLOGY BASED SERVICES AND MHA WILL REIMBURSE THE CITY OF MEMPHIS IS DIVISION UP TO \$1,200,000.00 FOR EXPENDITURES MADE ON BEHALF OF MHA FOR HARDWARE/SOFTWARE PURCHASES/INSTALLATION/SUPPORT/ MAINTENANCE AGREEMENTS AND LOCAL/LONG DISTANCE/CELLULAR PHONE EXPENSES.**

MOTION: Conrad

SECOND: Boyd

AYES: Conrad, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Ware and Chairman Collins

Boyd, Brown, Ford, Morrison and Strickland did not cast a vote

APPROVED

21. **APPOINTMENTS**

Chairman Collins recognized the following person who spoke from the audience:

Leo Augowhat, 3584 Vanyus, Mphs, TN 38111

MOTION: Ford – Divide the question and vote on each appointment or reappointment separately

Chairman Collins stated that without objection each item will be voted on separately

City Attorney

Re-appointment

Herman Morris

MOTION: Strickland

SECOND: Fullilove

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

City Engineer

Re-appointment

Wain Gaskins

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Fullilove, Halbert, Lowery, Morrison, Strickland,
and Ware
NAYS: Ford, Hedgepeth and Chairman Collins

APPROVED

Director of Finance

Re-appointment

Roland McElrath

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED

Director of Fire Services

Re-appointment

Alvin Benson

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED

Director of Housing and Community Development

Re-appointment

Robert Lipscomb

MOTION: Strickland
SECOND: Boyd
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED

Director of Planning and Development

Re-appointment

Richard Copeland

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

Director of Police Services

Re-appointment

Larry Godwin

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Strickland, Ware and Chairman Collins

APPROVED

Director of Public Works

Re-appointment

Dwan L. Gilliom

MOTON: Strickland

SECOND: Boyd

Chairman Collins: Can we do this all by acclamation, without objection? Chairman Collins stated that without objection so moved

APPROVED

16. RESOLUTION APPROVING THE CITY'S FEDERAL LEGISLATIVE PACKAGE.

MOTION: Strickland

SECOND: Boyd

AYES: Boyd, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland, Ware and Chairman Collins

Brown, Conrad, Flinn and Morrison did not cast a vote

APPROVED

17. **RESOLUTION APPROVING CHANGES TO THE SPEED HUMP POLICY.**

MOTION: Hedgepeth
SECOND: Strickland
AYES: Boyd, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery, Strickland,
Ware and Chairman Collins
Brown and Morrison did not cast a vote

APPROVED

18. **RESOLUTION AMENDING THE FY 2010 OPERATING BUDGET BY APPROPRIATING AN ADDITIONAL \$50,000.00 FOR THE TIRE REDEMPTION PROGRAM.** (Held from 1/26)

MOTION: Collins
SECOND: Fullilove
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Hedgepeth, Lowery, Morrison,
Strickland, Ware and Chairman Collins
Halbert did not cast a vote

APPROVED

19. **RESOLUTION RECLASSIFYING POSITIONS AT THE LOCAL WORKFORCE INVESTMENT AGENCY (LWIA-13) TO COMPLY WITH THE RECOMMENDATIONS BY THE STATE OF TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT DIVISION.**

MOTION: Strickland
SECOND: Ford
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED

MOTION: Strickland – Take 30 million from reserves, 10 million in cuts from the City's Budget, and 10 million credit from Memphis City Schools Energy Modification Loan, not contingent upon what they owe us
SECOND: Boyd

NO ACTION TAKEN, set up as Special Item #3

MAIN MOTION: Flinn – Hold for two weeks

SECOND: Hedgepeth
AYES: Boyd, Brown, Flinn, Fullilove, Halbert, Hedgepeth, Lowery, Morrison, Ware
and Chairman Collins
NAYS: Conrad and Strickland
Ford abstained

APPROVED, item held to February 23, 2010. Set up as Special Item #4

MINUTES

Approval of the Minutes of the regular meeting of February 9, 2010 for Items #11 and #21 only with the following motion:

MOTION: Ford
SECOND: Morrison
AYES: Boyd, Brown, Conrad, Flinn, Ford, Fullilove, Halbert, Hedgepeth, Lowery,
Morrison, Strickland, Ware and Chairman Collins

APPROVED, as amended. Set up as Special Item #5

INTRODUCTION OF ITEMS ON MATTERS BY THE GENERAL PUBLIC:

Chairman Collins recognized the following person who spoke from the audience:

Leo Augowhat, 3584 Vanyus, Mphs, TN 38111

ADJOURNED MEETING AT 6:35 P.M.

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Upon statement of the Chairman, without objection, the meeting was adjourned, subject to the call of the Chairman.

C H A I R M A N

Attest:

Deputy Comptroller/Council Records